

Page 7 of 14
Application No. 09/785,205
Amendment B

REMARKS

Claims 1, 13, 17, 21, and 22 have been amended without adding new matter in order to correct minor informalities and to address other issues raised by the Examiner. No claims have been added or canceled. Twenty-two (22) claims remain pending in the application: Claims 1-22. Reconsideration of claims 1-22 in view of the amendments above and remarks below is respectfully requested.

Applicants acknowledge with appreciation the Examiner's indication that claims 17 and 18 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Furthermore, Applicants acknowledge with appreciation the Examiner's willingness to take part in the telephonic interview on November 16, 2004.

By way of this amendment, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned at (858) 552-1311 so that such issues may be resolved as expeditiously as possible.

Summary of Applicant Initiated Examiner Interview

Per 37 CFR § 133(b), the following is a brief summary of the Examiner Interview conducted on November 16, 2004 via telephone between Steven M. Freeland, Attorney of Record, and Examiner Stephen D'Agosta. Mr. Freeland discussed the cited prior art with the Examiner and indicated that the cited art taught away from being combined because it would at least defeat the intended purpose of one or more of the applied patents. No agreement was reached because the Examiner stated that further analysis of the references was needed. Claims 17 and 18 and their allowability were also discussed. Independent claim 1 was also discussed where distinctions of the

Page 8 of 14
Application No. 09/785,205
Amendment B

embodiments of the present application were identified over the cited art, and possible amendments as incorporated in the subject application were discussed. The Examiner agreed that the proposed amendments may distinguish the claims over the art, but further analysis was needed.

Claim Rejections - 35 U.S.C. §103

1. Claims 1-9, 11-16 and 19-22 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 6,728,518 (Scrivens et al.) in view of U.S. Patent No. 5,023,706 (Sandberg). Applicant has amended Claim 1 for example to recite in part, "output devices communicating requests to the local distribution unit, such that the local distribution unit selectively distributes requested information to the output devices." Support for this amendment can be found throughout the specification, drawings, and claims. For example, support can be found, at least in the specification at page 5, lines 7-27 of the application as filed.

Applicant respectfully submits that neither the Scrivens nor Sandberg patents teach or suggest for example an output device that communicates requests to a local distribution unit. Instead, Scrivens only describes a system that only emits a single frequency broadcast to all of the output devices. Likewise, Sandberg describes a system that broadcasts radio and television to all of the output devices. The Scrivens and Sandberg patents fail to teach any transmission of data back from output devices to a distribution unit. Furthermore, neither Scrivens nor Sandberg describes output devices that communicate a request back to the local distribution unit. To the contrary, the Scrivens patent teaches away from an output device communicating back to a distribution unit in that the output devices for Scrivens are intentionally simple, low cost receivers specifically limited to receive only a single radio frequency. The Sandberg patent only describes a radio and television which may include changing of

Page 9 of 14
Application No. 09/785,205
Amendment B

the radio station or television channel at the output device, this process would encompass tuning the output device to another broadcasted frequency. The tuning at the output device is entirely different from an output device communicating a request back to the local distribution unit for selective distribution of the requested information as recited in amended claim 1.

Still further, neither Scrivens nor Sandberg teach a local distribution unit selectively distributing requested information based on the request received from the output device. Applicant respectfully submits that the Scrivens and Sandberg references do not teach or suggest at least an output device that communicates a request back to a local distribution unit. Thus, the Scrivens and Sandberg patents do not teach or suggest all the elements of the claimed invention, and therefore do not make Claim 1 obvious.

Moreover as indicated above, the Scrivens patent teaches away from two-way communication. The Scrivens patent specifically teaches away from "receivers 12" transmitting information because the Scrivens patent specifically requires that the "receivers 12" be simple, low cost receivers fixed to receive a single frequency. (Scrivens, col. 3, lines 41-46 and col. 1, lines 10-41). To add a transmitter would greatly increase the cost and complexity of the device, and additionally increase the likelihood of interference reducing the effectiveness of the receivers. Adding a transmitter to the receiver 12 of the Scrivens patent would thus defeat the intended purposes of the Scrivens patent. Therefore, the Scrivens patent teaches away from the receivers 12 being in two-way communication with the local distribution unit, and thus Claim 1 is neither anticipated nor obvious in view of the Scrivens patent.

In addition, Applicant respectfully submits that the Scrivens and Sandberg patents fail to teach or suggest uniquely identifiable output devices as recited in Claim 1. To the contrary, Scrivens only describes generating a single, radio broadcast

Page 10 of 14
Application No. 09/785,205
Amendment B

signal that is received by the receiver 12 pre-set to a single, fixed frequency; and Sandberg only describes radio and television, which are broadcast signals as well. There is no suggestion of specifically or uniquely identifying each device. While the Examiner cites the "code" in Scrivens to suggest that the receivers are uniquely identified, no where does Scrivens suggest the "code" uniquely identifies each receiver. Instead, Scrivens only describes the code as "preventing interception of the broadcast radio signal" to which all of the receivers at an event are tuned. (Scrivens, col. 3, line 33, emphasis added). Therefore, Scrivens does not teach or suggest uniquely identifying the output devices, and instead teaches away from uniquely identifying each receiver as this would add complexity and cost.

The Examiner further suggests that the activation of the receivers in Scrivens provides unique identification. Again, however, the Scrivens patent only describes transmitting an activation signal over the single fixed radio frequency to which all receivers are tuned. There is no discussion or suggestion in Scrivens to uniquely identify each receiver. Instead, the Scrivens patent teaches away from uniquely identifying because the Scrivens patent attempts to provide simple, low cost receivers (see for example, Scrivens, col. 3, lines 41-46 and col. 1, lines 10-41). Providing unique identification would greatly complicate the receiver of Scrivens. Therefore, the Scrivens patent teaches away from uniquely identifying.

Further, Applicant respectfully submits that one skilled in the art would not combine Scrivens and Sandberg because combining Scrivens and Sandberg would defeat the intended purposes of at least the Scrivens patent. The Scrivens patent describes a receiver 12 that is intentionally limited to a simple, low cost receiver that is pre-tuned to a single, fixed radio frequency for reliable radio signal reception with reduced interference. (See for example, Scrivens, col. 3, lines 41-46). To add a television and allow reception of multiple television and radio stations through the receiver 12 of

Page 11 of 14
Application No. 09/785,205
Amendment B

the Scrivens patent would add significant complexity and cost, increase the likelihood of interference, and reduce reliability, thus defeating the intended purposes of the Scrivens patent.

Moreover, Scrivens expressly discourages the use of tunable frequencies because tuning can "create distractions for adjacent spectators" (Id., col. 1, lines 18-21), as well as significantly increase receiver cost, interference, and create problems for the user if they are not adjusted accurately (Id., col. 1, lines 36-41). Therefore, the tunable radio and television in Sandberg create these potential problems, and thus would go specifically against the intended purposes of Scrivens. Therefore, one skilled in the art would not combine the Scrivens and Sandberg patents.

Still further, the Scrivens patent does not teach or suggest a registration terminal. Alternatively, the Scrivens patent describes a single frequency radio signal that is broadcasted at sufficient strength so that receivers outside the venue would also receive the signal. (Scrivens, col. 3, lines 30-32). Receivers outside the venue would not register as recited in claim 1. Thus, receivers are not restricted to the venue and would not register at a "registration terminal".

2. Claims 2-12 are dependent upon amended Claim 1, and as such, Claims 2-12 are not obvious for at least the same reasons as stated above for amended Claim 1. Applicant respectfully submits that claims 2-9 and 11-12 are not obvious over Scrivens in view of Sandberg, and are thus in a condition for allowance.

Additionally regarding Claim 8, both Scrivens and Sandberg teach away from a receiver being a personal digital assistant. The Scrivens patent specifically describes a specific "fixed frequency receiver for detecting a radio broadcast." (Scrivens, col. 2, lines 12-13, emphasis added). By employing only the fixed frequency, the receiver of the Scrivens patent "eliminates problems due to interference, inaccurate

Page 12 of 14
Application No. 09/785,205
Amendment B

operation, mechanism failure, and other reliability issues," as well as reduces cost and complexity. (Id., col. 3, lines 45-46). Therefore, the Scrivens patent specifically teaches away from incorporating the simple, low cost, fixed frequency receiver into a personal digital assistant as this would add complexity, prevent the fixed frequency implementation, increase the likelihood for inaccurate operation, and increase cost; thus, defeating the intended purpose of the Scrivens patent. In addition, Sandberg teaches away from a receiver being a personal digital assistant because Sandberg intended to create an all inclusive device comprising a radio, television, and binoculars; and a personal digital assistant would not allow the incorporation of at least the binoculars.

3. Independent Claim 13 has been amended to recite in part, "receiving a request by fans from the viewers" and "selectively distributing requested information to the viewers". Support for this amendment can be found throughout the specification, drawings, and claims. For example, support can be found at least in the specification at page 5, lines 7-27 of the application as filed. Applicant respectfully submits that neither Scrivens nor Sandberg teach communicating requests or selectively distributing requested information because neither reference teaches or suggests two-way communication. Consequently, the same arguments stated above for amended Claim 1 apply here for amended Claim 13, and therefore demonstrate that Claim 13 is not obvious over Scrivens in view of Sandberg.

4. Claims 14-22 depend from amended independent Claim 13, and as such are not obvious for at least the same reasons as provided above. Therefore, Applicant respectfully submits that claims 14-22 are not obvious over the Scrivens patent in view of the Sandberg patent, and are thus in a condition for allowance.

Page 13 of 14
Application No. 09/785,205
Amendment B

5. Claim 10 stands rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 6,728,518 (Scrivens et al.) in view of U.S. Patent No. 5,023,706 (Sandberg) and further in view of U.S. Patent No. 6,073,171 (Gaughan et al.). Claim 10 depends from independent Claim 1 and thus is put into a condition of allowance for at least the reasons stated above for Claim 1. Still further, the Examiner cites Gaughan to demonstrate that the TV of Sandberg accesses the internet. However, Claim 10 recites that the "local distribution unit" receives data from the internet, not the output devices. Therefore, Gaughan does not teach a "local distribution unit" retrieving internet data. Moreover, one skilled in the art would not combine the Gaughan reference of web TV allowing individual users through their TV to access internet. It would go against the intended purpose of the Scrivens patent to allow each receiver 12 to access the internet as this would require tremendous complexity and cost. Therefore, one skilled in the art would not combine Scrivens, Sandberg, and Gaughan; and thus, Claim 10 is in a condition for allowance.

Allowable Subject Matter

6. Claims 17 and 18 stand objected to as being dependent upon a rejected base claim. Applicant acknowledges with appreciation the Examiner's indication that claims 17 and 18 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has amended Claim 17 to be rewritten in independent form including all of the relevant limitations of the base claim and intervening claims. Thus, Claim 17 is now in a condition for allowance.

Claim 18 is dependent upon amended Claim 17, and thus is also in a condition for allowance.

Page 14 of 14
Application No. 09/785,205
Amendment B

CONCLUSION

Applicants submit that the above amendments and remarks place the pending claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Dated: December 2, 2004

Respectfully submitted,



Steven M. Freeland
Reg. No. 42,555
Attorney for Applicant
(858) 552-1311

Address all correspondence to:
FITCH, EVEN, TABIN & FLANNERY
Thomas F. Lebens
120 So. LaSalle Street, Ste. 1600
Chicago, IL 60603

Direct telephone inquiries to:
Thomas F. Lebens
(858) 552-1311
San Diego, California Office of
FITCH, EVEN, TABIN & FLANNERY